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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/066,513	04/24/98	REYNOLDS	K 21669USA

JOSHUA R SLAVITT
SYNNESTVEDT & LECHNER
SUITE 2600
1101 MARKET STREET
PHILADELPHIA PA 19107-2950

IM52/1012

EXAMINER

NOLAN, S

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 10/12/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory ActionApplication No.
09/066,513Applicant(s)
REYNOLDS ET ALExaminer
Sandra NolanArt Unit
1772

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

THE REPLY FILED Sept. 28, 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ In view of the early submission of the proposed reply (within two months as set forth in MPEP § 706.07 (f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for the reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.
3. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search. (See NOTE below);
- (b) ☐ they raise the issue of new matter. (See NOTE below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: _____

4. ☐ Applicant's reply has overcome the following rejection(s): _____
5. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in separate, timely filed amendment cancelling the non-allowable claim(s).
6. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ Request for reconsideration has been considered but does NOT place the application in condition for allowance because:
the statements in the 9-28-01 declaration (Paper No. 15) are opinions of an officer of applicants' transferee company and are, therefore, not convincing. See the attachment.
7. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
8. ☒ For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):
Claim(s) allowed: None
Claim(s) objected to: None
Claim(s) rejected: 1-17 and 25-31
9. ☐ The proposed drawing correction filed on _____ a) ☐ has b) ☐ has not been approved by the Examiner.
10. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
11. ☐ Other: _____

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ATTACHMENT TO ADVISORY ACTION

Claims

1. Claims 1-23 and 25-31 are pending. Claims 1-17 and 25-31 are rejected.

Rejection Withdrawn

2. The 35 USC 112 rejection of claims 1-17 and 25-31 as indefinite, as stated in paragraph 4 of the May 22, 2001 Office Action (Paper No. 12), is withdrawn in view of Applicants' remarks concerning same in the response of September 28, 2001 (Paper No. 14).

Rejection Maintained

3. The 35 USC 103 rejection of claims 1-17 and 25-31, as stated in paragraph 6 of Paper No. 12, is maintained for the reasons of record.

The Examiner acknowledges that, through inadvertence, only claims 1-17 and 25-28 were listed in paragraph 6 of Paper No. 12. Claims 1-17 and 25-31 (claims 29-31 were added in the amendment of March 19, 2001 (Paper No. 11). The Examiner regrets any inconvenience caused by this inadvertence.

Response to Arguments

4. Applicant's arguments filed in the response dated September 28, 2001 (Paper No. 15) have been fully considered but they are not persuasive.

On pages 2-3 of Paper No. 15, Applicants argue that the Gruel patent does not suggest the use of PTFE (PTFE=tetrafluoroethylene).

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The Examiner notes this argument, but does not find it convincing. The Gruel patent discloses the use of TFE/allylic monomer (TFE= tetrafluoroethylene) copolymers as a first layer in a multilayer composite for cable jacketing. While the Gruel copolymers may not be PTFE homopolymers, they do contain TFE units and are, therefore, suggestive of PTFE.

In addition, the Examiner notes the comments of Dr. Marino in the declaration submitted on September 28, 2001. Those comments do not serve to overcome the rejection chiefly because:

(1) They are the opinions of an interested party, since Dr. Marino is a Vice President of Market Corporation, the transferee of an interest in the subject application (according to Applicants' Small Entity Statement dated June 25, 1998).

(2) Dr. Marino's comments in the declaration seem to argue in support of a limitation that is not recited in the claims--that is, that "polytetrafluoroethylene" refers only to homopolymeric materials containing TFE-based moieties. See MPEP 2145 (VI).

At page 3, Applicants refer to "the cited patents" without particular reference to the Sasaki et al teachings.

Accordingly, the Examiner will not comment on Sasaki et al here.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sandra M. Nolan, whose telephone number is (703) 308-9545. The examiner can normally be reached on Monday through Thursday from 6:30 am to 4:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (703) 308-4251. The fax phone number for the organization where this application is assigned is (703) 305-5408.

The telephone number for the receptionist is (703) 308-0661.

SMN

SMN/smn
October 11, 2001
09066513.5

[Signature]
HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

10/11/01